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EXAMINER

JACOBS, LASHONDA T

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 04/21/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/417,739

Applicant(s)

BOSS ET AL

Examiner

LaShonda T. Jacobs

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4,7-9,15,16 and 37-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4,7-9,15,16 and 37-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

This Office Action is in response to Applicant's request for reconsideration on August 6, 2003.

Claims 4, 7-9, 15-16, and 37-43 are presented for further examination

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 4, 7 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Bryant.

As per claim 4, Bryant discloses a method and system for recording network transactions, comprising the acts of:

- coupling to a client object by the way of a proxy server (monitor) interface of said client object (see abstract, col. 3, lines 59-61 and col. 10, lines 15-16);
- receiving from said client object, a client request destined for said network (col. 3, lines 34-36);
- recording selected information indicative of said client request (col. 2, lines 8-12, and col. 3, lines 62-66);
- transmitting said client request onto said network (col. 3, lines 34-36, and col. 4, lines 49-56); and

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- simulating a user interaction by retransmitting said client request (see abstract, col. 1, lines 48-55, lines 66-67, col. 2, lines 1-19, col. 4, lines 13-24, and col. 5, lines 15-26; Bryant discloses a set of HTTP submitter routines that replays a user's request of URLs in which the user's request are retransmitted to the server. Therefore, Bryant does teach simulating a user interaction by retransmitting said client request.).

As per claim 7, Bryant discloses:

- coupling to a client object by the way of a proxy server (monitor) interface of said client object (see abstract, col. 3, lines 59-61 and col. 10, lines 15-16);
- receiving a first client request destined for said network (col. 3, lines 34-36, and col. 4, lines 49-56);
- recording selected information indicative of said first client request (see Fig. 2, col. 2, lines 8-12, and col. 3, lines 62-66);
- transmitting said first client request onto said network (col. 3, lines 34-36, and col. 4, lines 49-56);
- receiving a response to said first client request from said network (col. 3, lines 34-36, and col. 4, lines 49-56);
- transmitting said response to said client object (col. 3, lines 34-36, and col. 4, lines 49-56);
- receiving a second client request destined for said network (see Fig. 2, col. 3, lines 34-36, lines 62-67, and col. 4, lines 1-3); and
- transmitting said second client request onto said network (col. 3, lines 34-36, and col. 4, lines 49-56);

- recording selected information indicative of said second client request, whereby recorded information is created, wherein the recorded information indicative of said second client request is a function of said response (col. 3, lines 62-67, col. 4, lines 1-3, lines 50-67 and col. 5, lines 1-6; Bryant discloses a monitor that records a user's request of URLs as shown in Figure 2. Therefore, Bryant implicitly discloses recording selected information indicative of said second client request, whereby the information is created, wherein the recorded information of said second client request is a function of said response).

As per claim 16, Bryant discloses:

- a first interface connectible to a client object, whereby said interface receives requests destined for said network originating from said client object (at least implicitly) (col. 3, lines 5-8 and lines 49-61);
- a recorder object in communication with said first object for receiving said requests by way of said first interface (col. 4, lines 66-67 and col. 5, lines 1-6), and said recorder object creating a record comprising a representation of said requests (see Fig. 2, col. 3, lines 62-67, col. 4, lines 1-3, and col. 5, lines 3-6); and
- a second interface connectible to said network (at least implicitly) (col. 2, lines 66-67, col. 3, lines 1-5, lines 14-26), said second interface being in communication with said recorder object wherein said recorder object transmits said request to said network by way of said second interface (col. 4, lines 49-56); and
- wherein said second interface receives responses destined for said client object originating from said network, wherein said recorder object is in communication with

said second interface for receiving said responses by the way said second interface, wherein said first interface is in communication with said recorder object whereby said recorder object transmits said responses to said client object by the way of said first interface, wherein at some of the representation of said requests is a function of said responses response (col. 3, lines 62-67, col. 4, lines 1-3, lines 50-67 and col. 5, lines 1-6; Bryant discloses a monitor that records a user's request of URLs as shown in Figure 2. Therefore, Bryant implicitly discloses recording selected information indicative of said second client request, whereby the information is created, wherein the recorded information of said second client request is a function of said response).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8 and 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant in view of Burch et al (hereinafter, "Burch", 6,088,708).

As per claims 8 and 37, Bryant discloses the invention substantially as claimed.

However, Bryant does not explicitly disclose:

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- wherein at least one of said responses is a web page including a plurality of hyperlinks, and wherein said function takes into account the relative location of one said hyperlinks on said web page.

Burch discloses a system and method for creating a table from a layout of objects on a page including:

- wherein at least one of said responses is a web page including a plurality of hyperlinks, and wherein said function takes into account the relative location of one said hyperlinks on said web page (col. 10, lines 16-40 and col. 13, lines 14-32; Burch discloses a user activating a hyperlink that is in relative location to another hyperlink;).

Given the teaching of Burch, it would have been obvious to one of ordinary skill in the art to modify Bryant by specifying that a user's request for URL is activated by selecting a link that is in relative location to another hyperlink allowing a user to view web pages in a timely and efficient manner.

5. Claims **9, 15** and **38-41** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant in view of Barrick, Jr. et al (hereinafter, "Barrick, Jr.", 6,625,647).

As per claim **9**, Bryant discloses:

- coupling to a client object by the way of a proxy server (monitor) interface of said client object (see abstract, col. 3, lines 59-61 and col. 10, lines 15-16);
- receiving a first client request destined for said network (col. 3, lines 34-36, and col. 4, lines 49-56);
- transmitting said first client request onto said network (col. 3, lines 34-36, and col. 4, lines 49-56);

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- receiving a second client request destined for said network (see Fig. 2, col. 3, lines 34-36, lines 62-67, and col. 4, lines 1-3); and
- transmitting said second client request onto said network (col. 3, lines 34-36, and col. 4, lines 49-56);

However, Bryant does not explicitly disclose:

- recording the time between the first and second client requests.

Barrick, Jr. discloses a method and apparatus for evaluating service to a user over the Internet comprising:

- recording the time between the first and second client requests (abstract, col. 2, lines 28-34, lines 46-53, lines 64-67 and col. 3, lines 1-10; Barrick, Jr. discloses a browser agent that measures a download time according to difference in time a user access a web page.)

Given the teaching of Barrick, Jr., it would have been obvious to one of ordinary skill in the art to modify Bryant by specifying that the monitor is capable of recording the time between the user's requests in which the monitor measures a download time interval between the requests to improve the network performance.

As per claims 15, 40, and 41 Bryant discloses:

- a computer-readable medium containing computer-executable instructions (col. 10, lines 64-67, and col. 11, lines 1-6).

As per claim 38, Bryant discloses:



- a first interface connectible to a client object, whereby said interface receives requests destined for said network originating from said client object (at least implicitly) (col. 3, lines 5-8 and lines 49-61);
- a recorder object in communication with said first object for receiving said requests by way of said first interface (col. 4, lines 66-67 and col. 5, lines 1-6), and said recorder object creating a record comprising a representation of said requests (see Fig. 2, col. 3, lines 62-67, col. 4, lines 1-3, and col. 5, lines 3-6);
- a second interface connectible to said network (at least implicitly) (col. 2, lines 66-67, col. 3, lines 1-5, lines 14-26), said second interface being in communication with said recorder object wherein said recorder object transmits said request to said network by way of said second interface (col. 4, lines 50-56); and
- said recorder object (col. 5, lines 52-67, and col. 6, lines 1-8).

However, Bryant does not explicitly disclose:

- calculates the time between a first of said requests and a second of said requests, and includes in said record a representation of the calculated time.

Barrick, Jr. discloses a method and apparatus for evaluating service to a user over the Internet comprising:

- calculates the time between a first of said requests and a second of said requests, and includes in said record a representation of the calculated time (abstract, col. 2, lines 28-34, lines 46-53, lines 64-67 and col. 3, lines 1-10; Barrick, Jr. discloses a browser agent that measures a download time according to difference in time a user access a web page.)

Given the teaching of Barrick, Jr., it would have been obvious to one of ordinary skill in the art to modify Bryant by specifying that the monitor is capable of recording the time between the user's requests in which the monitor measures a download time interval between the requests to improve the network performance.

As per claim 39, Bryant discloses:

- a replayer object which simulates a user network transaction by sending over said network the requests represented in said record including said first request and said second request (see abstract, col. 1, lines 48-55, lines 66-67, col. 2, lines 1-19, col. 4, lines 13-24, col. 5, lines 52-67, and col. 6, lines 1-8).

However, Bryant does not explicitly disclose:

- inserting a duration of time between said first request and said second request based on the representation of the calculated time contained in said record.

Barrick, Jr. discloses a method and apparatus for evaluating service to a user over the Internet comprising:

- inserting a duration of time between said first request and said second request based on the representation of the calculated time contained in said record (abstract, col. 2, lines 28-34, lines 46-53, lines 64-67 and col. 3, lines 1-10; Barrick, Jr. discloses a browser agent that measures a download time according to difference in time a user access a web page.)

Given the teaching of Barrick, Jr., it would have been obvious to one of ordinary skill in the art to modify Bryant by specifying that the monitor is capable of recording the time between the

user's requests in which the monitor measures a download time interval between the requests to improve the network performance.

6. Claims **42** and **43** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant as applied to claims **4**, **7** and **16** above, and further in view of Bryant et al (6,078,956).

As per claim **42**, Bryant discloses the invention substantially as claimed.

However, Bryant does not explicitly disclose

- wherein the recorded information indicative of said second client request is further a function of a cookie associated with said response.

In an analogous art, Bryant (6,078,956) discloses:

- wherein the recorded information indicative of said second client request is further a function of a cookie associated with said response (abstract and col. 2, lines 23-43; Bryant discloses sending response time information from a Web client to a Web server in a cookie).

Given the teaching of Bryant (6,078,956), it would have been obvious to one of ordinary skill in the art to modify Bryant by including a cookie within the monitor in order to obtain information associated with a response allowing the monitor to keep track and identify user activities on a web page.

As per claim **43**, Bryant discloses the invention substantially as claimed.

However, Bryant does not explicitly disclose

- wherein at least some of the representation said requests is further a function of one or more cookies associated with said responses.

In an analogous art, Bryant (6,078,956) discloses:

- wherein at least some of the representation said requests is further a function of one or more cookies associated with said responses (abstract and col. 2, lines 23-43; Bryant discloses sending response time information from a Web client to a Web server in a cookie).

Given the teaching of Bryant (6,078,956), it would have been obvious to one of ordinary skill in the art to modify Bryant by including a cookie within the monitor in order to obtain information associated with a response allowing the monitor to keep track and identify user activities on a web page.

#### ***Response to Arguments***

7. Applicant's arguments filed January 27, 2004 have been fully considered but are moot in view of the new ground(s) of rejection.

The Office notes the following arguments:

- a. Chen does not teach or suggest that information indicative of a request is recorded and is a function of a response to a previous request.
- b. Chen does not teach that the function takes into account the relative location of hyperlinks on a web page.
- c. Chen does teach or suggest recording the time between two requests.
- d. Claim 4 calls for both the transmission and retransmission of a request. Bryant at best teaches the transmission of a request, not the transmission and retransmission of the same request.

In considering (a)-(c), Applicant's arguments have been fully considered but are moot in view of the new ground(s) of rejection.

In considering (d), Examiner respectfully disagrees with Applicant's argument. According to the claim limitation, "simulating a user interaction by retransmitting said client request", Bryant discloses a monitor that records and replays a set of URLs that issue from a Web browser during an interactive session between the client machine and server application. Each of the HTTP submitter routine simulates a particular user of client machine connected to the server application. The HTTP submitter routines replays the user's request of URLs in which the user's request are retransmitted to the server. Thus, Bryant discloses simulating a user interaction by retransmitting said client request (see abstract, col. 1, lines 48-55, lines 66-67, col. 2, lines 1-19, col. 4, lines 13-24, and col. 5, lines 15-26).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,606,657 to Ziberstein et al

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 703-305-7494. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703-308-7562. The fax phone numbers for the


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organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

LaShonda T. Jacobs  
Examiner  
Art Unit 2157

ltj  
April 18, 2004

  
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